

## § 111.12

## 19 CFR Ch. I (4–1–09 Edition)

a written examination taken within the 3-year period before submission of the application referred to in § 111.12(a), that he has sufficient knowledge of customs and related laws, regulations and procedures, bookkeeping, accounting, and all other appropriate matters to render valuable service to importers and exporters.

(b) *Partnership.* In order to qualify for a broker's license, a partnership must have at least one member of the partnership who is a broker.

(c) *Association or corporation.* In order to qualify for a broker's license, an association or corporation must:

(1) Be empowered under its articles of association or articles of incorporation to transact customs business as a broker; and

(2) Have at least one officer who is a broker.

### § 111.12 Application for license.

(a) *Submission of application and fee.* An application for a broker's license must be submitted in duplicate to the director of the port where the applicant intends to do business. The application must be under oath and executed on Customs Form 3124. The application must be accompanied by the \$200 application fee prescribed in § 111.96(a) and one copy of the appropriate attachment required by the application form (Articles of Agreement or an affidavit signed by all partners, Articles of Agreement of the association, or the Articles of Incorporation). If the applicant proposes to operate under a trade or fictitious name in one or more States, evidence of the applicant's authority to use the name in each of those States must accompany the application. An application for an individual license must be submitted within the 3-year period after the applicant took and passed the written examination referred to in §§ 111.11(a)(4) and 111.13. The port director may require an individual applicant to provide a copy of the notification that he passed the written examination (see § 111.13(e)) and will require the applicant to submit fingerprints on form FD 258 or electronically at the time of filing the application. The port director may reject an application as improperly filed if the application, on its face,

demonstrates that one or more of the basic requirements set forth in § 111.11 have not been met at the time of filing, in which case the application and fee will be returned to the filer without further action.

(b) *Posting notice of application.* Following receipt of the application, the port director will post a notice that the application has been filed. The notice will be posted conspicuously for at least 2 consecutive weeks in the customhouse at the port and similarly at any other port where the applicant also proposes to maintain an office. The notice also will be posted by appropriate electronic means. The notice will give the name and address of the applicant and, if the applicant is a partnership, association, or corporation, will state the names of all members or officers who are licensed as brokers. The notice will invite written comments or information regarding the issuance of the license.

(c) *Withdrawal of application.* An applicant for a broker's license may withdraw the application at any time prior to issuance of the license by providing written notice of the withdrawal to the port director. However, withdrawal of the application does not entitle the applicant to a refund of the \$200 application fee.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by T.D. 01-14, 66 FR 8767, Feb. 2, 2001]

### § 111.13 Written examination for individual license.

(a) *Scope of examination.* The written examination for an individual broker's license will be designed to determine the individual's knowledge of customs and related laws, regulations and procedures, bookkeeping, accounting, and all other appropriate matters necessary to render valuable service to importers and exporters. The examination will be prepared and graded at Customs Headquarters, Washington, DC.

(b) *Date and place of examination.* Written examinations will be given on the first Monday in April and October unless the regularly scheduled examination date conflicts with a national holiday, religious observance, or other

foreseeable event and the agency publishes in the FEDERAL REGISTER an appropriate notice of a change in the examination date. An individual who intends to take the written examination must so advise the port director in writing at least 30 calendar days prior to the scheduled examination date and must remit the \$200 examination fee prescribed in § 111.96(a) at that time. The port director will give notice of the exact time and place for the examination.

(c) *Special examination.* If a partnership, association, or corporation loses the required member or officer having an individual broker's license (see §§ 111.11(b) and (c)(2)) and its license would be revoked by operation of law under the provisions of 19 U.S.C. 1641(b)(5) and § 111.45(a) before the next scheduled written examination, Customs may authorize a special written examination for a prospective applicant for an individual license who would serve as the required licensed member or officer. Customs may also authorize a special written examination for an individual for purposes of continuing the business of a sole proprietorship broker. A special written examination for an individual may also be authorized by Customs if a brokerage firm loses the individual broker who was exercising responsible supervision and control over an office in another district (see § 111.19(d)) and the permit for that additional district would be revoked by operation of law under the provisions of 19 U.S.C. 1641(c)(3) and § 111.45(b) before the next scheduled written examination. A request for a special written examination must be submitted to the port director in writing and must describe the circumstances giving rise to the need for the examination. If the request is granted, the port director will notify the prospective examinee of the exact time and place for the examination. If the individual attains a passing grade on the special written examination, the application for the license may be submitted in accordance with § 111.12. The examinee will be responsible for all additional costs incurred by Customs in preparing and administering the special examination that exceed the \$200 examination fee prescribed in

§ 111.96(a), and those additional costs must be reimbursed to Customs before the examination is given.

(d) *Failure to appear for examination.* If a prospective examinee advises the port director at least 2 working days prior to the date of a regularly scheduled written examination that he will not appear for the examination, the port director will refund the \$200 examination fee referred to in paragraph (b) of this section. No refund of the examination fee or additional reimbursed costs will be made in the case of a special written examination provided for under paragraph (c) of this section.

(e) *Notice of examination result.* Customs will provide to each examinee written notice of the result of the examination taken under this section. A failure of an examinee to attain a passing grade on the examination will preclude the submission of an application under § 111.12 but will not preclude the examinee from taking an examination again at a later date in accordance with paragraph (b) of this section.

(f) *Appeal of failing grade on examination.* If an examinee fails to attain a passing grade on the examination taken under this section, the examinee may challenge that result by filing a written appeal with Trade Policy and Programs, Office of International Trade, U.S. Customs and Border Protection, Washington, DC 20229 within 60 calendar days after the date of the written notice provided for in paragraph (e) of this section. CBP will provide to the examinee written notice of the decision on the appeal. If the CBP decision on the appeal affirms the result of the examination, the examinee may request review of the decision on the appeal by writing to the Secretary of Homeland Security, or his designee within 60 calendar days after the date of the notice of that decision.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by T.D. 03-23, 68 FR 31977, May 29, 2003]

#### **§ 111.14 Investigation of the license applicant.**

(a) *Referral of application for investigation.* The port director will immediately refer an application for an individual, partnership, association, or corporation license to the special agent in